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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 TRUSTEES OF THE CONSTRUCTION
11 INDUSTRY AND LABORERS HEALTH
AND WELFARE TRUST, *et al.*,

12 Plaintiffs,

13 v.

14 CONCRETE CORING OF NEVADA,
15 INC., *et al.*,

16 Defendants.

Case No. 2:10-CV-01600-KJD-PAL

ORDER

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18 Presently before the Court is Plaintiffs' Motion to Amend Judgment Against Concrete Coring
19 (#20). Defendant Concrete Coring of Nevada filed a response in opposition (#24) to which Plaintiffs
20 replied (#26). Also before the Court is Plaintiffs' Motion to Set a Briefing Schedule in Lieu of Joint
21 Pre-Trial Order (#21). Defendant Old Republic filed a response (#25) to which Plaintiffs replied
22 (#27).

23 Plaintiffs seek a judgment for attorneys' fees that they were unable to include in their motion
24 for summary judgment, because they had not yet been incurred. Defendant Concrete Coring argues
25 that Plaintiff's moved too late for an inclusion of attorneys' fees. However, though judgment had
26 been entered against Concrete Coring based on the Court's granting of Plaintiffs' motion for

summary judgment, the entire action should not have been closed. Instead, the Clerk's Office inadvertently closed the case, though Defendant Old Republic still remained in the action. Furthermore, ERISA's non-discretionary fee shifting provision, 29 U.S.C. § 1132(g)(2) allows attorney's fees incurred in post-judgment activities. See also, Plumbers' Pension F. v. Domas Mech. Contractors, 778 F.2d 1266 (7th Cir. 1985). Accordingly, good cause being found, the Court awards an additional judgment¹ of \$8,750.00. Furthermore, the Court grants the motion for a briefing schedule on the remaining claim based on this award against Old Republic as surety. If the parties are unable to resolve the remaining issues, Plaintiffs shall file their opening brief within thirty (30) days of the entry of this order. Defendant Old Republic will file its reply brief within twenty-one (21) days of Plaintiffs' opening brief, and Plaintiffs shall reply within seven (7) days.

Accordingly, IT IS HEREBY ORDERED that Plaintiffs' Motion to Amend Judgment Against Concrete Coring (#20) is **GRANTED**;

IT IS FURTHER ORDERED that the Clerk of the Court enter **JUDGMENT** in the amount of \$8,750.00 for Plaintiffs and against Defendant Concrete Coring of Nevada, Inc.;

IT IS FURTHER ORDERED that Plaintiffs' Motion to Set a Briefing Schedule in Lieu of Joint Pre-Trial Order (#21) is **GRANTED**;

IT IS FURTHER ORDERED that the Clerk of the Court re-open the action as to Defendant Old Republic.

DATED this 16 day of July 2012.



Kent J. Dawson
United States District Judge

¹The Court recognizes that Defendant Concrete Coring has paid the full amount of the original judgment.